

CIVIL SERVICE COMMISSION MINUTES

MARCH 4, 2009

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 of the County Administration Center, 1600 Pacific Highway, San Diego, California.

Present were:

W. Dale Bailey
A.Y. Casillas
Barry I. Newman
Francesca Krauel

Absent was:

None

Comprising a quorum of the Commission

Support Staff Present:

Patt Zmary, Executive Officer
Karen F. Landers, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

Approved
Civil Service Commission

April 1, 2009

**SAN DIEGO COUNTY CIVIL SERVICE COMMISSION
REGULAR MEETING AGENDA
MARCH 4, 2009**

2:00 p.m. CLOSED SESSION: Discussion of Personnel Matters
and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San
Diego, California

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
3,4,5,6,9	6		

COMMENTS: Motion by Newman to approve all items not held for
discussion; seconded by Krauel. Carried.

**CLOSED SESSION AGENDA
County Administration Center, Room 400B
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this
location to hear the announcement of the
closed session agenda.**

A. Commissioner Casillas: CONSIDERATION OF PUBLIC
EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(b)) Richard
Pinckard, Esq., on behalf of **2008-09**, appealing an
Order of Suspension and Charges from the Probation
Department.

**OPEN SESSION AGENDA
County Administration Center, Room 358**

MINUTES

1. Approval of the Minutes of the regular meeting of February
4, 2009.

Approved.

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CONFIRMATION OF ASSIGNMENT

2. Commissioner Bailey: Donovan Jacobs, Esq., on behalf of **2009-02**, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

DISCIPLINE

Findings

3. Commissioner Casillas: Richard Pinckard, Esq., on behalf of **2008-09**, appealing an Order of Suspension and Charges from the Probation Department.

FINDINGS AND RECOMMENDATIONS:

The matter of the appeal of 2008-09, ("Employee"), from a written Order of Suspension and Charges suspending Employee for a period of fifteen (15) eight-hour workdays (120 hours) from the class and position of Deputy Probation Officer (DPO) (Class No. 5065) in the Probation Department, ("Department"), was presented to the Civil Service Commission. The Commission appointed Commissioner A. Y. Casillas, one of its members, to hear the appeal and submit findings, conclusions, and recommendations to the Civil Service Commission. Thereafter, the matter was duly noticed and came on for hearing on January 26 and 27, 2009.

Employee is a DPO in the Department of Probation. Employee was given a fifteen day suspension for allegedly compromising an undercover law enforcement operation by failing to follow the instructions of Employee's supervisor and releasing confidential information about the operation. However, at the Commission hearing, the evidence established that Employee followed Department policy and procedures. Additionally, Employee took extra precautions to prevent the release of confidential information. The evidence further established that the release of confidential information, if any, was caused by personnel involved in the undercover operation. Accordingly, it is recommended that the Order of Suspension be reversed; that Employee be awarded back pay, benefits and interest for any suspension already served relating to the Order of Suspension minus any wages he received from outside employment; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Casillas to approve Findings and Recommendations; seconded by Bailey. Carried.

DISCRIMINATION

Findings

4. Commissioner Krauel: **Alan Landers**, Senior Procurement Contracting Officer, alleging discrimination by the Department of Purchasing and Contracting.

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission (Commission) on December 17, 2008, the Commission appointed Francesca Krauel to investigate the complaint submitted by Alan Landers, which alleged age, gender, race, nationality, non-job related factor (Vietnam-era veteran) and retaliation discrimination by the Department of Purchasing and Contracting. In accordance with the established rules and procedures of the Commission, the matter was concurrently referred to the Office of Internal Affairs (OIA) for investigation. The OIA concluded the investigation and has reported its findings to the Commission.

This Investigating Officer has taken into consideration all documentation submitted in this matter. The report of OIA has been received and reviewed by the undersigned Investigating Officer who concurs with OIA's Report and has concluded that the evidence does not support a finding of probable cause that a violation of discrimination laws occurred. It is therefore recommended that Mr. Landers' Rule VI discrimination complaint be denied; and that the Commission approve and file this report with the appended OIA Summary Investigative Report with a finding of no probable cause to believe that the Complainant has been unlawfully discriminated against.

Motion by Krauel to approve Findings and Recommendations; seconded by Bailey. Carried.

SELECTION PROCESS

Appeals

5. **Mildred Gutierrez**, applicant, appealing the Department of Human Resources' determination that she is disqualified from competing in the selection process for the classification of Office Assistant.

RECOMMENDATION: Deny Request

Mildred Gutierrez addressed the Commission regarding her Rule X selection process complaint. She explained that she had been an office assistant at the Agency. The Agency issued a disciplinary action; Ms. Gutierrez resigned in lieu of termination.

Zenobia Howard, Sr. Human Resources Analyst, DHR, explained that Ms. Gutierrez had previously submitted a resignation in lieu of termination, and pursuant to Civil Service Rule 2.1.6, the Director can disqualify or remove or not certify any person who may be unfit for any job-related reason in order to protect the merit basis of the personnel system.

**Motion by Newman to approve staff recommendations;
seconded by Krauel. Carried.**

OTHER MATTERS

Seal Performance Appraisal

6. **2009-03**, Probation Department, requesting the sealing of a performance appraisal covering the period June 30, 2007 through June 29, 2008.

RECOMMENDATION: Grant Request

Commissioner Newman pulled this item and asked a Departmental representative to explain the Department's position.

Anna Hirsch, Departmental Human Resources Officer, explained that the performance appraisal process was flawed by the Department's untimely issuance.

Commissioner Newman stated that in the last several years he has continued to feel that a successor supervisor would be harmed by not having a full year's performance appraisal, which would reflect the job performance and character of an employee. He also questioned why the employee wants this appraisal sealed, and is it because of the timeliness issue, only. Commissioner Newman invited the Employee and the Department to respond.

Commissioner Krauel asked Ms. Hirsch if the Department would be issuing another performance appraisal if this one was sealed; and what the reasons were behind the Department agreeing to the sealing beyond the untimely issuance.

Ms. Hirsch replied that the Department agreed to seal due to the timeline flaws. She could not answer at this time what other reasons the Department may have had for agreeing to seal the performance appraisal, but that she would re-address this issue with the Commission once she ascertained answers from her Department as well as the Employee's reason(s) for the request.

Motion by Krauel to continue this item until the April 1, 2009 CSC meeting; seconded by Newman. Carried.

Extension of Temporary Appointment

7. Office of the Public Defender

2 Deputy Public Defenders I (Martin Serra, Lorenda Stern)

RECOMMENDATION: Ratify

Item No. 7 ratified.

8. Public Input.

None.

INFORMATION

9. **Richard Needham**, Senior Departmental Human Resources Officer, withdrawal of complaint alleging discrimination by the County Library. (Commissioner Bailey)

Mr. Needham stated, for the Commission's information only, that he will be requesting reinstatement of his Rule VI discrimination complaint. He outlined reasons why he will be pursuing the Rule VI. Karen Landers, Sr. Deputy County Counsel, advised that Mr. Needham would have to request reconsideration in writing and that the Commission can then vote on the reconsideration at its next meeting.

ADJOURNED: 3:25 p.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION:

APRIL 1, 2009

ASSISTANCE FOR THE DISABLED:

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